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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,752	04/17/2000	Tomas Leon	M-8664-3C US	1159

24251 7590 07/02/2003

SKJERVEN MORRILL LLP  
25 METRO DRIVE  
SUITE 700  
SAN JOSE, CA 95110

EXAMINER
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HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/550,752

Applicant(s)

LEON ET AL.

Examiner

Lalita M Hamilton

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on pre. amen. filed 4/14/2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other:  |

Art Unit: 3624

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youden (4,232,367) in view of Aztec Properties (530 S.W.2d 756; 1975 Tenn. LEXIS 566).

Youden discloses an inflation-adjusted financial instrument comprising:

- a principal component, the principal component being periodically adjusted to obtain an inflation-adjusted principal component (**col.2, lines 15-25 and 35-40 and col.5, lines 30-48**)
- an accrual component including an interest rate fixed for a term of the financial instrument (**col.5, lines 5-27 and fig.3a-g**)
- wherein periodic interest payments are paid based on the inflation-adjusted principal component at the time said periodic interest payments are paid (**col.5, lines 35-45**)
- wherein the inflation-adjusted principal component is payable at the end of the term (**col.3, lines 32-38**)
- financial instrument comprises a debt instrument (**col.1, lines 25-30 and 45-50**)
- debt instrument comprises a certificate of deposit (**col.1, lines 25-30 and 45-50**)

Youden silent as to what the inflation is based, which is as follows:

- inflation based on the Consumer Price Index (CPI)

It is well known to utilize the CPI in determining inflation. Aztec teaches a case in which the inflation-adjusted principal was to be calculated utilizing a formula based on

Art Unit: 3624

CPI (p.1: see opinion [\*757]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the CPI in determining inflation, since the use of the CPI is well known in the art in determining inflation-adjusted principal and utilizing the CPI in Youden's device would provide the user with a means from which to derive the rate of inflation, given that Youden is silent as to what is utilized in determining inflation.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Youden and Aztec Properties as applied to claim 34, in further view of U.S. Dept. of Labor.

Youden discloses and Aztec teaches the invention substantially as claimed; however, neither reference discloses nor teaches:

- Consumer Price Index (CPI) comprises the Consumer Price Index for all urban consumers (CPI-U)

If utilizing the CPI in determining the inflation-adjusted principal, the Examiner found it to be obvious to utilize the CPI-U. According to the U.S. Dept. of Labor, the most requested statistics is the CPI-U from years 1982-1984 (see attached document). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the CPI-U, as taught by the U.S. Dept. of Labor, in determining the inflation-adjusted principal, as disclosed by Youden and taught by Aztec, since the information provided by the U.S. Dept. of Labor is public record and if utilizing the CPI, then it would be obvious to utilize the CPI-U, as well.

Claims 38, 40-42, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youden in view of Aztec properties and Robbins (4,194,242).

Youden discloses an inflation-adjusted financial instrument comprising:

Art Unit: 3624

- a principal component (**col.2, lines 15-25 and 35-40 and col.5, lines 30-48**)
- an accrual component including an interest rate fixed for a term of the financial instrument and being adjusted for inflation (**col.5, lines 5-27 and fig.3a-g**)
- wherein the inflation-adjusted principal component is payable at the end of the term (**col.3, lines 32-38**)
- financial instrument comprises a debt instrument (**col.1, lines 25-30 and 45-50**)
- debt instrument comprises a certificate of deposit (**col.1, lines 25-30 and 45-50**)

Youden silent as to what the inflation is based, which is as follows:

- inflation based on the Consumer Price Index (CPI)

It is well known to utilize the CPI in determining inflation. Aztec teaches a case in which the inflation-adjusted principal was to be calculated utilizing a formula based on CPI (p.1: see opinion [\*757]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the CPI in determining inflation, since the use of CPI is well known in the art in determining inflation-adjusted principal and utilizing the CPI in Youden's device would provide the user with a means from which to derive the rate of inflation, given that Youden is silent as to what is utilized in determining inflation.

Youden does not disclose:

- variable interest components payable periodically, said variable interest component being adjusted for inflation

The use of variable interest components in financial instruments is well known in the art. Robbins teaches a method and system for determining and computing interest rates wherein the interest rate fluctuates (varies) (see abstract). It would have been

Art Unit: 3624

obvious to one having ordinary skill in the art at the time the invention was made to incorporate a variable interest rate, as taught by Robbins, into the device disclosed by Youden, to provide an interest rate, in addition to the fixed rate, that is adjustable based on inflation.

Claims 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youden, Aztec Properties, and Robbins as applied to claims 38 and 42, in further view of the U.S. Dept. of Labor.

Youden discloses and Aztec and Robbins teach the invention substantially as claimed; however, neither reference discloses nor teaches:

- Consumer Price Index (CPI) comprises the Consumer Price Index for all urban consumers (CPI-U)

If utilizing the CPI in determining the inflation-adjusted principal, the Examiner found it to be obvious to utilize the CPI-U. According to the U.S. Dept. of Labor, the most requested statistics is the CPI-U from years 1982-1984 (see attached document). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the CPI-U, as taught by the U.S. Dept. of Labor, in determining the inflation-adjusted principal as disclosed by Youden and taught by Aztec and Robbins, since the information provided by the U.S. Dept. of Labor is public record and if utilizing the CPI, then it would be obvious to utilize the CPI-U, as well.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mussamo ('978) and ('422) teach a cash management system. Braun ('672) teaches a financial data processing system. Shavit ('156) teaches an

Art Unit: 3624

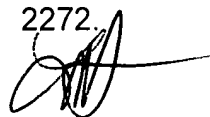
interactive market management system. Leon ('457), ('461), and ('673) are previous patents by the Applicant relating to the pending application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-6101 for regular communications and (703) 746-6101 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272.



LMH

June 27, 2003



VINCENT MILLIN  
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